

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CIV 13-0708 JB/LAM

2121 CELESTE ROAD SW,
ALBUQUERQUE, NEW MEXICO,

MORE PARTICULARLY DESCRIBED AS:
TR A LAND DIV LAND OF JERRY &
JENNIE PADILLA (REPLAT TR 52-A
MRGCD MAP 57) CONT 0.449 AC M/L

Defendant,

and

JERRY L. PADILLA, III;
JERRY L. PADILLA, JR.; AND
CRUZ J. FRAIRE,

Claimants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the Claimant Cruz J. Fraire's Motion to Re-Open Briefing, filed January 21, 2016 (Doc. 66) ("Motion"). The Court held a hearing on February 17, 2016. The Court opened the hearing by explaining that it currently had a ninety-page draft opinion and that it was comfortable concluding that Fraire was not an innocent owner, and granting the requests for relief in the United States' Motion for Summary Judgment and Memorandum Brief in Support, filed November 11, 2015 (Doc. 57) ("United States MSJ").

Transcript of Hearing at 3:10-16 (Court)(taken February 16, 2016)(“Tr.”).¹ The Court then considered Plaintiff United States of America’s and Claimant Cruz J. Fraire’s arguments with respect to the Motion, and granted it in part, explaining:

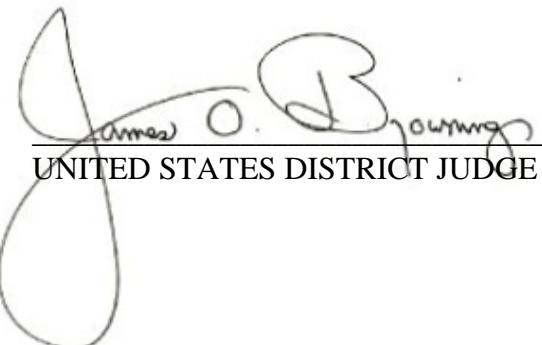
All right. Thank you Mr. Gorence. Well, I’m going to grant the motion in part. I’m not quite sure what reopening the briefing entails unless it’s probably don’t issue the opinion until we get our additional briefing in. But I’ll grant the motion to the extent that if claimant has something else they want to say and the United States as well if y’all want to say anything you want to put it in a letter or a pleading that’s fine. I’m working on the motion as you can tell with 90 pages I’m well into the issues I’ve looked at a lot of law here, but I’d be glad to have all the help I can get so anything you want to give. I probably am not going to hold up on the opinion. I can’t tell you after today what I’m going to do whether I’m going to go back to the office and continue to work on it. I start tomorrow morning at 8:30 in another case with 18 motions so I mean it doesn’t stop around here, so sometimes I have to just get stuff done, and so I don’t know this may be one of the ones where I just need to [go] a little bit longer and get it out and everybody can shoot at me what I’ve done. It may be that I put it aside and work on something else so you’ll have plenty of time to get it in before I get the opinion out. I haven’t decided that. I’m going to have to look. I’ve got a trial that starts Monday, 6 day trial, followed immediately with a trial the following Tuesday. So I’m just backed up. So I haven’t decided what I’m going to do after today’s hearing. So at least right now I’m going to work on this case. If anybody wants to send in anything additional I’ll be glad to look at it and take it into account in putting this opinion together.

Tr. at 21:11-19 (Court). As stated orally at the February 17, 2016, hearing, the Court will grant the Motion in part, and allow the parties to timely submit any additional briefing or letters that they think the Court might find useful in deciding the Claimant Cruz J. Fraire’s Motion for Summary Judgment, filed July 29, 2015 (Doc. 43), and the United States MSJ.

IT IS ORDERED that the Claimant Cruz J. Fraire’s Motion to Re-Open Briefing, filed January 21, 2016 (Doc. 66), is granted in part. The parties may submit additional briefing, materials, and letters on the issues raised by the Claimant Cruz J. Fraire’s Motion for Summary

¹The Court’s citations to the transcript of the February 17, 2016 hearing refer to the court reporter’s original, unedited version. Any final transcript may contain slightly different page and/or line numbers.

Judgment, filed July 29, 2015 (Doc. 43), and the United States' Motion for Summary Judgment and Memorandum Brief in Support, filed November 11, 2015 (Doc. 57).



James O. B. Bowles
UNITED STATES DISTRICT JUDGE

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-- and --

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